THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.2107 OF 2003

Date: 26th October 2006

Between:
Podilapu Narayana Rao, s/o Sanyasappadu,
aged 31 years, Occ: Fair Price Shop Dealer,
R/o Damarasingi village, Gurla Mandal,
Vizianagaram District.

…. Petitioner.

And

1. The District Collector,
   Vizianagaram District,
   Vizianagaram and 3 others.

…. Respondents.

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ORDER:

This writ petition is filed seeking a writ of Mandamus declaring proceedings of the first respondent in R.P.No.7/2002 G.8, dated 15.01.2003, as arbitrary, illegal and contrary to the circulars issued by the government.

2. It appears that for the purpose of filling up of vacancy of fair price shop dealership of Damarasingi village of Gurla Mandal, Vizianagaram District, the Revenue Divisional Officer, Vizianagaram, issued a notification on 04.10.2002 inviting applications. In response to the said notification, ten applications were received. Out of 10 candidates, 8 candidates attended for written examination and interview. The marks secured by the

candidates are as under.

S.No.	Name of the applicant	Marks secured		
		written	oral	Total
01.	Meesala Narasinga Rao, S/o Satyanarayana	7/10	3/10	10/15
02.	Unukuru Paidiraju, S/o Pentayya	9/10	0/5	9/15
03.	Podilapu Govindarao, S/o Satyanarayana	6/10	2/5	8/15
04.	Meesala Prasad, S/o Suryanarayana	8/10	0/5	8/15
05.	Chebolu Santhibhushanarao, S/o Kameswararao	8/10	0/5	8/15
06.	Podilapu Narayanarao, S/oSanyasappadu	5.5/10	2/10	7.5/10
07.	Meesala Narayana Rao, S/o Sreeramulu	7/10	0/5	7/15
08.	Unukuru Gavarayya, S/o Lakshmayya.	3/10	2/5	5/15
09.	Puri Adinarayana, S/o Narasimhulu	Not attended		
10.	Podilapu Ganapathi Rao, S/o Satyam.	Not attended		

Meesala Narasinga Rao, son of Satyanarayana has obtained highest marks. However, as per the merit list prepared by the Revenue Divisional Officer, Vizianagaram, the 1st candidate Meesala Narasinga Rao was age barred and the second candidate should have been preferred. But the Revenue Divisional Officer had appointed the third candidate Podilapu Govinda Rao, son of Satyanarayana. However, Govinda Rao was also working in a non-governmental organization, which was receiving government aid. When he was advised to resign for the said post, he refused to do so. In spite of that when appointment was not offered to the petitioner, the petitioner filed an appeal before the Joint Collector.

The learned Joint Collector allowed the appeal and directed the Revenue Divisional Officer to appoint the petitioner against the said vacancy of fair price shop dealership. However, aggrieved by the said order, 4th respondent herein filed revision before the District Collector, Vizianagaram. The District Collector, Vizianagaram, after an elaborate consideration of entire issue, directed the Revenue Divisional Officer to issue a fresh notification and select suitable candidate duly following the procedure. Aggrieved by the same, the present writ petition is filed.

3. It is the case of the petitioner that in view of Govinda Rao, refusing to resign his post and joined as a fair price shop dealer, the appointment could have been offered to the immediate meritorious and eligible candidate as was done by the Joint Collector. In spite of that, the District Collector asked the Revenue Divisional Officer to issue a fresh notification. In fact, the process of selection and appointment in pursuance of notification dated 04.10.2002 has not been completed. Had it been completed, the matter would have been altogether different and ordering a fresh notification could be justified. I am in full agreement with the submission made by the learned counsel for the petitioner. The order passed by the Joint Collector was reversed and the impugned order was passed stating that

> "The Joint Collector simply relied on confession of the second respondent that he is unwilling to run fair price shop and ordered to appoint first respondent as fair price shop dealer. As per the merit list, the first

respondent is not next top scorer to the second respondent. But in fact, the present petitioner is equal to the second respondent in terms of marks and before issuing the orders, the Joint Collector appreciated the candidature of the present petitioner and issued notice. Further, as per the above G.O., there is no provision to maintain waiting list for selection of fair price shop dealer. Hence, the orders of the Joint Collector are not in accordance with the rules and the same is liable to be set aside."

I am of the opinion that the selection process itself was not completed. When it was offered to one Govinda Rao, he did not join. Whether he is willing to resign or not is altogether a different matter. Unless and until the process of selection is completed, nullifying the process in pursuance of the notification dated 04.10.2002 is undesirable.

4. In view of the above, without expressing any opinion on merits while setting aside the orders passed by the District Collector and the Joint Collector, Vizianagaram, the Revenue Divisional Officer, Vizianagaram Division, is directed to consider appointment of eligible candidate from among the list of the candidates prepared pursuant to the notification dated 04.10.2002 and pass appropriate orders as per law within a period of four weeks from the date of receipt of a copy of this order.

5. The writ petition is accordingly allowed. No costs.

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C.V.RAMULU, J.

Date: 26th October 2006.
BSB